CHAPTER 43
ASSESSMENTS AND REFUNDS
[Prior to 12/17/86, Revenue Department[730]]

701—43.1(422) Notice of discrepancies.

43.1(1) *Notice of adjustments.* An agent, auditor, clerk or employee of the audit and compliance division, designated by the director of the division to examine returns and make audits, who discovers discrepancies in returns or learns that the income of the taxpayer may not have been listed, in whole or in part, or that no return was filed when one was due, is authorized to notify the taxpayer of this discovery by ordinary mail. Such notice shall not be termed an assessment. It may inform the taxpayer what amount would be due if the information discovered is correct.

43.1(2) *Right of taxpayer upon receipt of notice of adjustment.* A taxpayer who has received notice of an adjustment in connection with a return may pay the additional amount stated to be due. If payment is made, and the taxpayer wishes to contest the matter, the taxpayer should then file a claim for refund. However, payment will not be required until assessment has been made (although interest will continue to accrue if payment is not made). If no payment is made, the taxpayer may discuss with the agent, auditor, clerk or employee who notified the taxpayer of the discrepancy, either in person or through correspondence, all matters of fact and law which the taxpayer considers relevant to the situation. Documents and records supporting the taxpayer's position may be required.

43.1(3) Rescinded, effective 7/24/85.

This rule is intended to implement Iowa Code sections 422.25 and 422.30.

701—43.2(422) Notice of assessment, supplemental assessments and refund adjustments. If after following the procedure outlined in 43.1(2) no agreement is reached, and the taxpayer does not pay the amount determined to be correct, a notice of assessment shall be sent to the taxpayer by mail. If the period in which the correct amount of tax can be determined is nearly at an end, either a notice of assessment without compliance with 43.1(2) or a jeopardy assessment may be issued. All notices of assessment shall bear the signature of the director.

The department may, at any time within the period prescribed for assessment or refund adjustment, make a supplemental assessment or refund adjustment whenever it is ascertained that any assessment or refund adjustment is imperfect or incomplete in any respect.

If an assessment or refund adjustment is appealed (protested under rule 701—7.41(17A)) and is resolved whether by informal proceedings or by adjudication, the department and the taxpayer are precluded from making a supplemental assessment or refund adjustment concerning the same issue involved in the appeal for the same tax period unless there is a showing of mathematical or clerical error or a showing of fraud or misrepresentation. Nothing in this rule shall prevent the making of an assessment or refund adjustment for the purpose of taking into account the impact upon Iowa net income of federal audit adjustments.

This rule is intended to implement Iowa Code sections 422.25 and 422.30.

701—43.3(422) Overpayments of tax. The following are provisions for refunding or crediting to the taxpayer's deposits or payments for tax in excess of amounts legally due.

43.3(1) *Claims for refund.* When an overpayment of tax is not indicated on the face of the return, a claim for refund of individual income tax may be made on a form obtainable from the income tax division. Claims for refund should not be mailed in the same envelope or attached to the return. In the case of a claim filed by an agent of the taxpayer, a power of attorney must accompany the claim.

43.3(2) *Offsetting refunds.* A taxpayer shall not offset a refund or overpayment of tax for one year as a prior payment of tax of a subsequent year on the return of a subsequent year without authorization in writing by the department. The department, may, however, apply an overpayment, or a refund otherwise due the taxpayer, to any tax due or to become due from the taxpayer.

43.3(3) *Setoffs of qualifying debts administered by the department of administrative services.* Before any refund or rebate from a taxpayer's individual income tax return is considered for purposes of setoff, the refund or rebate must be applied first to any outstanding tax liability of that taxpayer with the department of revenue. After all outstanding tax liabilities are satisfied, any remaining balance of refund or rebate will be set off against any debt of the taxpayer, setoff of which is overseen by the department of administrative services pursuant to 2003 Iowa Acts, House File 534, section 86.

43.3(4) *College loan setoff.* Rescinded IAB 11/12/03, effective 12/17/03.

43.3(5) *District court debts setoff.* Rescinded IAB 11/12/03, effective 12/17/03.

43.3(6) *Overpayment credited to estimated tax.* Any remaining balance of overpayment, at the election of the taxpayer, will be refunded to the taxpayer or credited as a first payment of the taxpayer's estimated tax for the following year. However, a taxpayer may elect to credit an overpayment from a return to the estimated tax for the following tax year only in cases when the return is filed in the same calendar year that the return is due. For example, a taxpayer's 1994 return is due on April 30, 1995. If the taxpayer files that return on or before December 31, 1995, the taxpayer can elect to credit an overpayment on that return to estimated tax for 1995, and this election will be honored by the department. See also rule 701—49.7(422).

If an overpayment of income tax is shown as a credit to estimated tax for the succeeding taxable year, the amount shall be considered as a payment of the income tax for the succeeding taxable year and no claim for credit or refund of the overpayment shall be allowed on the return where the overpayment arose.

When a taxpayer elects to have an overpayment credited to estimated tax for the succeeding year, interest may properly be assessed on a deficiency of income tax for the year in which the overpayment arose. If a taxpayer elects to have all or part of an overpayment shown on the return applied to the estimated income tax for the succeeding taxable year, the election is binding to the taxpayer.

An overpayment of tax may be used to offset any outstanding tax liability owed by the taxpayer, but once an elected amount is credited as a payment of estimated tax for the succeeding year, it loses its character as an overpayment for the year in which it arose and thereafter cannot offset any subsequently determined tax liability.

43.3(7) *Refunds—statute of limitations for years ending before January 1, 1979.* Rescinded IAB 10/12/94, effective 11/16/94.

43.3(8) *Refunds—statute of limitations for tax years ending on or after January 1, 1979.* The statute of limitations with respect to which refunds or credit may be claimed are:

a. The later of

(1) Three years after due date of payment upon which refund or credit is claimed; or

(2) One year after which such payment was actually made.

b. Six months from the date of final disposition of any federal income tax matter with respect to the particular tax year. The taxpayer, however, must have notified the department of the matter within six months after the specified three-year period, contained in paragraph "*a,*" subparagraph (1), above. The term "matter" includes, but is not limited to, the execution of waivers and commencement of audits. The refund is limited to those matters between the taxpayer and the Internal Revenue Service which affect Iowa taxable income. *Kelly-Springfield Tire Co. v. Iowa State Board of Tax Review,* 414 N.W.2d 113 (Iowa 1987).

c. For federal audits finalized on or after July 1, 1991, the taxpayer must claim a refund or credit within six months of final disposition of any federal income tax matter with respect to the particular tax year regardless when the tax year ended. It is not necessary for the taxpayer to have previously notified the department within the period of limitations specified in 43.3(8)*"a"*(1) above of a matter between the taxpayer and the Internal Revenue Service in order to receive a refund or credit. The term "matter" includes, but is not limited to, the execution of waivers and commencement of audits. The refund or credit is limited to those matters between the taxpayer and the Internal Revenue Service which affect Iowa taxable income. *Kelly-Springfield Tire Co. v. Iowa State Board of Tax Review,* 414 N.W. 2d 113 (Iowa 1987).

d. Three years after the date of the return for the year in which a net operating loss or capital loss occurs, which if carried back results in a reduction of tax in a prior period and an overpayment results.

43.3(9) *Refunds—statute of limitations for individuals who died as a result of hostile action.* Rescinded IAB 10/12/94, effective 11/16/94.

43.3(10) *Refunds—statute of limitations for MIAs and spouses of MIAs.* Rescinded IAB 10/12/94, effective 11/16/94.

43.3(11) *Refunds—statute of limitations for insolvent farmers who received capital gains from farmland sold in 1982 and 1983.* Rescinded IAB 10/12/94, effective 11/16/94.

43.3(12) *Refunds—statute of limitations for individuals with certain charitable contributions.* Rescinded IAB 10/12/94, effective 11/16/94.

43.3(13) *Refunds—statute of limitations for taxpayers who paid state income tax on 1988 returns on certain supplemental assistance payments.* Notwithstanding the three-year statute of limitations in Iowa Code section 422.73, claims for refunds filed with the department on or before April 30, 1993, will be considered timely if filed on a 1988 state return where the refund claim is for state income tax paid on supplemental assistance payments paid to an individual who provided unskilled in-home health services to a member of the individual's family. For additional information on the retroactive exemption for supplemental assistance payments, see rule 701—40.43(422).

43.3(14) *Refunds—statute of limitations for taxpayers who paid state income tax on returns for tax years where federal income tax was refunded due to a provision of the Taxpayer Relief Act of 1997.* Notwithstanding the three-year statute of limitations in Iowa Code section 422.73, claims for refund filed with the department on or before June 30, 1999, will be considered timely if the taxpayer's federal income tax was refunded due to a provision in the Taxpayer Relief Act of 1997 which affected the federal adjusted gross income of an individual or an estate or a trust. This particular provision may affect Iowa returns for a tax year beginning on or after January 1, 1977, to the extent the federal adjusted gross incomes on federal returns for the tax year were affected by the Taxpayer Relief Act of 1997.

This rule is intended to implement Iowa Code section 421.17 as amended by 2003 Iowa Acts, House File 534, and sections 422.2, 422.16, and 422.73.

701—43.4(56,422,456A) Optional designations of funds by taxpayer.

43.4(1) *Iowa fish and game protection fund.*

a. For tax years beginning on or after January 1, 1982, but before January 1, 1984. The taxpayer may designate a portion or all of the overpayment of tax indicated on the face of the return to be donated to the Iowa fish and game protection fund. The donation must be $1 or more, and the designation must be made on the original return for the current year. The donation is allowed only after obligations of the taxpayer to the Iowa department of revenue and finance, the child support recovery unit of the Iowa department of human services, and the college aid commission have been satisfied. The designation to the fund is irrevocable and cannot be made on an amended return. If the amount of refund as claimed on the original return is adjusted by the department, the amount of the designation to the fund may be adjusted accordingly.

EXAMPLE A: Overpayment as shown on the original return is $50. $25 is designated to the fund. Due to an error on the return, only $20 is an overpayment. The taxpayer would not receive any refund and all $20 of the overpayment would be credited to the fund.

EXAMPLE B: Overpayment as shown on the original return is $50. $25 is designated to the fund. Due to an error on the return, no overpayment occurred, but instead the taxpayer owes $20. No money would be credited to the fund in this instance.

b. For tax years beginning on or after January 1, 1984. The taxpayer may designate an amount to be donated to the Iowa fish and game protection fund. The donation must be $1 or more, and the designation must be made on the original return for the current year. The donation is allowed only after obligations of the taxpayer to the Iowa department of revenue and finance, the child support recovery unit of the Iowa department of human services, the college aid commission, and the additional political campaign contribution have been satisfied. The designation to the fund is irrevocable and cannot be made on an amended return. If the amount of refund claimed on the original return or the payment remitted with the return is adjusted by the department, the amount of the designation to the fund may be adjusted accordingly.

EXAMPLE A: Overpayment as shown on the original return is $50. $25 is designated to the fund. Due to an error on the return, only $20 is an overpayment. The taxpayer would not receive any refund and all $20 of the overpayment would be credited to the fund.

EXAMPLE B: Overpayment as shown on the original return is $50. $25 is designated to the fund. Due to an error on the return, no overpayment occurred, but instead the taxpayer owes $20. No money would be credited to the fund in this instance.

EXAMPLE C: Amount shown due on return is $30. $20 is designated to the fund. A $50 payment was made with the return. Due to an error on the return, the taxpayer owes $40. Only $10 would be credited to the fund in this situation.

43.4(2) *Iowa election campaign fund.*

a. For tax years beginning on or after January 1, 1983, but before January 1, 1984, any taxpayer who directs that $1 of the taxpayer's tax liability be paid over to the Iowa election campaign fund may also donate an additional $2 to be allocated to or among the qualifying political parties in the same manner as the taxpayer's $1 designation. If a husband and wife file a joint return each spouse may direct that an additional $2 be donated pursuant to the provisions of this paragraph. The $2 donation will reduce the taxpayer's refund or increase the amount due with the return, and must be made on the original return for the current year. The donation is allowed only after the taxpayer's obligations to the Iowa department of revenue and finance, the child support recovery unit, foster care recovery unit, public assistance overpayments, the college aid commission, and the Iowa fish and game protection fund have been satisfied. The designation to the fund is irrevocable and cannot be changed on an amended return. If the refund due on the return or the payment remitted with the return is insufficient to pay the additional $2 designated by the taxpayer, the amount designated shall be adjusted accordingly.

EXAMPLE A: Overpayment as shown on the original return is $50. $25 is designated to the Iowa fish and game protection fund and $2 to the Iowa election campaign fund. Due to an error on the return, only $26 is an overpayment. The taxpayer would not receive a refund and $25 would be credited to the Iowa fish and game protection fund and $1 would be credited to the Iowa election campaign fund.

EXAMPLE B: Tax due as shown on the original return is $10. An additional $2 is designated to the Iowa election campaign fund and a payment of $12 is made with the return. Due to an error on the return an additional $20 tax is due. No money would be credited to the fund in this instance.

EXAMPLE C: Overpayment as shown on the original return is $100. $25 is designated to the Iowa fish and game protection fund and $2 to the Iowa election campaign fund. The taxpayer owes either the department for previously unpaid taxes, the child support recovery unit, or the college aid commission $80. The taxpayer would not receive a refund, $20 would be credited to the Iowa fish and game protection fund and no contribution to the Iowa election campaign fund would be allowed.

b. For tax years beginning on or after January 1, 1984, but before January 1, 1986, any taxpayer who directs that $1 of the taxpayer's liability be paid over to the Iowa election campaign fund may also donate an additional $2 to be allocated to or among the qualifying political parties in the same manner as the taxpayer's $1 designation. If a husband and wife file a joint return each spouse may direct that an additional $2 be donated pursuant to the provisions of this paragraph. The $2 donation will reduce the taxpayer's refund or increase the amount due with the return, and must be made on the original return for the current year. The donation is allowed only after the taxpayer's obligations to the Iowa department of revenue and finance, the child support recovery unit, foster care recovery unit, public assistance overpayments, and the college aid commission have been satisfied. The designation to the fund is irrevocable and cannot be changed on an amended return. If the refund claimed on the original return or the payment remitted with the return is insufficient to pay the additional $2 designated by the taxpayer, the amount designated shall be adjusted accordingly.

EXAMPLE A: Overpayment as shown on the original return is $50. $25 is designated to the Iowa fish and game protection fund and $2 to the Iowa election campaign fund. Due to an error on the return, only $26 is an overpayment. The taxpayer would not receive a refund and $2 would be credited to the Iowa election campaign fund and $24 would be credited to the Iowa fish and game protection fund.

EXAMPLE B: Tax due as shown on the original return is $10. An additional $2 is designated to the Iowa election campaign fund and a payment of $12 is made with the return. Due to an error on the return an additional $20 tax is due. No money would be credited to the fund in this instance.

EXAMPLE C: Overpayment as shown on the original return is $100. $25 is designated to the Iowa fish and game protection fund and $2 to the Iowa election campaign fund. The taxpayer owes either the department for previously unpaid taxes, the child support recovery unit, or the college aid commission $80. The taxpayer would not receive a refund and $2 would be credited to the Iowa election campaign fund and $18 would be credited to the Iowa fish and game protection fund.

c. For tax years beginning on or after January 1, 1986, a person with a tax liability of $1.50 or more on the Iowa individual income tax return may direct or designate that a $1.50 contribution be made to a specific political party or that the contribution be made to the Iowa election campaign fund to be shared by all political parties as clarified further in this paragraph. In the case of married taxpayers filing a joint Iowa individual return with a tax liability of $3.00 or more, each spouse may direct or designate that a $1.50 contribution be made to a specific political party or that a $1.50 contribution be made to the Iowa election campaign fund as a contribution to be shared by all political parties. The designation or direction of a contribution to a political party or to the election campaign fund is irrevocable and cannot be changed on an amended return. The designation to a political party or the election campaign fund is allowed only after obligations of the taxpayer to the Iowa department of revenue and finance, the child support recovery unit, foster care recovery unit, public assistance overpayment, the college student aid commission, the district courts and other state agencies are satisfied and after designations of contributions to the Iowa fish and game protection fund are satisfied. Note that for purposes of this rule, "political party" means a party as defined in Iowa Code section 43.2.

In a tax year when there are two political parties for purposes of the Iowa election campaign fund, all undesignated contributions to the fund made on individual income tax returns for that tax year are to be divided equally between the two parties. In a tax year where there are more than two political parties for purposes of the Iowa election campaign fund, all undesignated contributions to the fund made on income tax returns for that tax year are to be divided among the political parties on the basis of the number of registered voters for a particular political party on December 31 of that tax year to the total number of registered voters on December 31 of that tax year that have declared an affiliation with any of the recognized political parties.

Thus, if there were 400,000 registered voters for "x" political party, 500,000 registered voters for "y" political party, and 100,000 registered voters for "z" political party on December 31 of a tax year where there were three recognized political parties, 40 percent of the undesignated political contributions on 1997 returns would be paid to "x" political party since 40 percent of the registered voters with an affiliation to a political party on December 31 had an affiliation with party "x" on that day.

43.4(3) *United States Olympic fund checkoff.* For tax years beginning on or after January 1, 1988, but prior to January 1, 1994, a taxpayer may designate a checkoff of $2 to the United States Olympic fund on the taxpayer's state individual income tax return. In the case of married taxpayers filing a joint state return or filing separately on the combined return form, each spouse may designate a $2 checkoff to the Olympic fund. If the overpayment on the return or the payment made with the filing of the return is not sufficient to cover the amount designated to the Olympic fund by the taxpayer, the amount credited to the Olympic fund will be reduced accordingly. The designation to the Olympic fund is irrevocable and cannot be revised on an amended return.

A designation to the Olympic fund may be allowed for a taxpayer only after obligations of the taxpayer to the department of revenue and finance, the child support recovery unit of the department of human services, the foster care recovery unit of the department of human services, the college aid commission, the office of investigations of the department of human services, the district courts, other state agencies, the Iowa election campaign fund checkoff, and the Iowa fish and game protection fund checkoff are satisfied.

On or before March 1 of each year, starting in the year 1990 and ending in March 1991, the department shall pay all the moneys in the Olympic fund to the United States Olympic Committee. One-half of the amount paid is to be made available in the year of payment for local amateur sports and special Olympic programs in Iowa with the advice of the governor's council on physical fitness.

On or before March 1 of each year, starting in the year 1992, the department shall pay one-half of the moneys in the fund to the United States Olympic Committee. Fifty percent of the remaining moneys in the fund shall be spent in the same year for local amateur sports for which there is Olympic competition with advice from the governor's council on physical fitness. The other half of the remaining moneys shall be paid in the same year to Iowa special Olympics, incorporated, for special Olympic programs.

43.4(4) *Domestic abuse services checkoff.* For tax years beginning on or after January 1, 1991, but before January 1, 1996, and for tax years beginning on or after January 1, 1997, a taxpayer filing a state individual income tax return can designate a checkoff of $1 or more to the general fund of the state to be used for the purposes of providing services to victims of domestic abuse or sexual assault. If the overpayment on the return or the payment made with the filing of the return is not sufficient to cover the amount designated to the domestic abuse services checkoff, the amount credited to the domestic abuse services checkoff will be reduced accordingly. The designation to the domestic abuse services checkoff is irrevocable and cannot be revised on an amended return.

A designation to the domestic abuse services checkoff may be allowed only after obligations of the taxpayer to the department of revenue and finance, the child support recovery unit of the department of human services, the foster care recovery unit of the department of human services, the college student aid commission, the office of investigations of the department of human services, the district courts, other state agencies, the Iowa election campaign checkoff, the Iowa fish and game protection fund checkoff, and the state fair foundation checkoff are satisfied.

On or before January 31 of the year following the year in which returns with domestic abuse services checkoff are due, the department of revenue and finance is to certify the total amount designated to the domestic abuse services checkoff to the state treasurer.

43.4(5) *State fair foundation checkoff.* For tax years beginning on or after January 1, 1993, a taxpayer filing a state individual income tax return can designate a checkoff of $1 or more to the Iowa state fair foundation. If the overpayment on the return or the payment made with the filing of the return is not sufficient to cover the amount designated to the state fair foundation checkoff, the amount credited to the state fair foundation checkoff will be reduced accordingly. The designation to the state fair foundation checkoff is irrevocable.

A designation to the state fair foundation checkoff may be allowed only after obligations of the taxpayer to the department of revenue and finance, the child support recovery unit of the department of human services, the foster care recovery unit of the department of human services, the college student aid commission, the office of investigations of the department of human services, the district courts, other state agencies, the Iowa election campaign checkoff, the Iowa fish and game protection fund checkoff, the United States Olympic fund checkoff, and the domestic abuse services checkoff are satisfied.

On or before January 31 of the year following the year in which returns with the state fair foundation checkoff are due, the department of revenue and finance shall transfer the total amount designated to the state fair foundation to the state fair foundation fund.

43.4(6) *Limitation of checkoffs on the individual income tax return.* For tax years beginning on or after January 1, 1995, no more than three checkoffs are allowed on the individual income tax return. The election campaign fund checkoff is not considered for purposes of limiting the number of checkoffs on the income tax return. When the same three checkoffs have been provided on the income tax return for three consecutive years, the checkoff for which the least amount has been contributed in the aggregate for the first two years and through March 15 of the third tax year will be repealed.

For example, the 1995 Iowa individual income tax return due in 1996 includes checkoffs A, B and C which also were shown on the Iowa returns for 1993 and 1994. Through March 15, 1996, $90,000 was contributed on the 1993, 1994 and 1995 returns for checkoff A, $60,000 was contributed for checkoff B and $120,000 for checkoff C. Since the least amount contributed in the aggregate was for checkoff B, that checkoff is repealed and will not appear on the 1996 Iowa income tax return to be filed in 1997.

43.4(7) *Keep Iowa beautiful fund checkoff.* For tax years beginning on or after January 1, 2001, a taxpayer filing an individual income tax return can designate a checkoff of $1 or more to the keep Iowa beautiful fund. If the refund due on the return or the payment remitted with the return is insufficient to pay the additional amount designated by the taxpayer to the keep Iowa beautiful fund, the amount credited to the keep Iowa beautiful fund will be reduced accordingly. Once the taxpayer has designated a contribution to the keep Iowa beautiful fund on an individual income tax return filed with the department of revenue and finance, the taxpayer cannot amend the designation.

A designation to the keep Iowa beautiful checkoff may be allowed only after obligations of the taxpayer to the department of revenue and finance, the child support recovery unit of the department of human services, the foster care recovery unit of the department of human services, the college student aid commission, the office of investigations of the department of human services, the district courts, other state agencies, the Iowa election campaign checkoff, the Iowa fish and game protection fund checkoff and the state fair foundation checkoff are satisfied.

On or before January 31 of the year following the year in which Iowa income tax returns with contributions to the keep Iowa beautiful fund are due, the department of revenue and finance is to certify to the state treasurer the amount designated to the keep Iowa beautiful fund on those returns.

This rule is intended to implement Iowa Code sections 56.18, 236.15B, 422.12D, and 422.12E and 2001 Iowa Acts, chapter 160, sections 1 and 2.

701—43.5(422) Abatement of tax. *(For assessments issued prior to January 1, 1995).* Iowa Code section 422.28 provides that a taxpayer may appeal to the director within 90 days any portion of tax, penalties, or interest assessed against the taxpayer. However, in the case of assessments issued on or after July 1, 1986, the period for appeal is reduced from 90 days to 60 days. If a taxpayer fails to appeal the assessment within the statutory period, the assessment becomes fixed as a matter of law: *Iowa Department of Revenue v. Ingwersen,* Des Moines County District Court, Case No. 17623, February 22, 1973; *Commonwealth v. Kettenacker*, 335 S.W.2d 339 (Ky.); *Heasley v. Engen*, 124 N.W.2d 398 (1963 N.D.). If, however, the statutory period for appeal has expired, the director may abate any portion of tax, penalties or interest assessed which the director determines is excessive in amount or erroneously or illegally assessed. However, for notices of assessment issued on or after January 1, 1995, see rule 701—7.31(421).

43.5(1) *Assessments qualifying for abatement.* To be subject to an abatement, an assessment must have been issued that exceeded the amount due as provided by the Iowa Code and the administrative rules issued by the department interpreting the Iowa Code. If a taxpayer fails to appeal an assessment that is based on the Iowa Code or the department's administrative rules interpreting the Iowa Code within the statutory period, then the taxpayer cannot request an abatement of the assessment, or a portion thereof, beyond the statutory time for appeal.

a. Examples of assessments where abatements may be requested include, but are not limited to, the following:

(1) Inclusion of income not required to be reported by the Iowa Code or administrative rule;

(2) Estimated or jeopardy assessments;

(3) Disallowance of a deduction;

(4) Disallowance of an exemption;

(5) Disallowance of a credit;

(6) Interest erroneously assessed;

(7) Change of filing status such as from married joint to married filing separately on the combined return;

(8) Change of deduction method as from standard deduction to itemized deductions.

b. Examples of assessments where abatement may not be requested include but are not limited to the following:

(1) Use of a method of accounting or method of reporting income not provided by the Iowa Code or administrative rules.

(2) Any other elections which the individual made on the return as filed.

43.5(2) *Procedures for requesting abatement.* If it is determined that an assessment, or portion thereof, is excessive or has been erroneously or illegally assessed, the taxpayer shall make a written request to the director for abatement of that portion of the assessment that is excessive. A request for abatement which is filed shall contain:

1. The taxpayer's name and address;
2. A statement on the type of proceeding, e.g., individual income tax, request for abatement; and
3. The following information:

a. The nature of the tax, the taxable period or periods involved and the amount thereof that was excessive or erroneously or illegally assessed;

b. Clear and concise statements of each and every error which the taxpayer alleges to have been committed by the director in the notice of the deficiency. Each assignment of error shall be separately numbered;

c. Clear and concise statements of all relevant facts upon which the taxpayer relies (documents verifying the correct amount of tax liability must be attached to this request);

d. Refer to any particular statute or statutes and any rule or rules involved;

e. The signature of the taxpayer or that of the taxpayer's representative;

f. Description of records or documents which were not available or were not presented to department personnel prior to the filing of this request, if any;

g. Any other matters deemed relevant and not covered in the above paragraphs.

This rule is intended to implement Iowa Code section 422.28.

701—43.6(422) 1978 Income tax rebate. A rebate of 1978 taxes is to be computed for all taxpayers that had an individual income tax liability for the first tax year beginning in 1978. The provisions of the rebate Act are in effect through June 30, 1980; therefore, the following subrules are applicable only through that date as clarified below in subrules 43.6(1) to 43.6(4).

43.6(1) *Rebate determined on tax liability minus allowable credits.* The amount of the rebate is determined on the Iowa income tax liability of a taxpayer, minus credits for *(a)* personal exemptions, *(b)* child and dependent care as defined in Section 44A of the Internal Revenue Code and *(c)* income tax paid to another state or foreign country. If the total of the above allowable credits is equal to or greater than the income tax liability of the taxpayer, the taxpayer will receive no rebate.

43.6(2) *Married couples filing separate return.* For purposes of the rebate, a married couple shall be considered as one taxpayer and the amount of the rebate shall be determined on the combined income tax liability of both spouses. For married persons filing separately on a combined return, only one rebate check will be issued in the names of both spouses. In the case of married taxpayers, who elect to file separate returns, the allowable rebate shall be prorated between the spouses on the ratio that each spouse's income tax liability bears to the total income tax liability of both spouses. The following formula may be used to compute the amount of the rebate that will be issued to each spouse:

$$\text{allowable rebate} \times \frac{\text{wife's income tax liability (net of applicable credits)}}{\text{income tax liability of both spouses (net of applicable credits)}} = \text{wife's rebate}$$

$$\text{allowable rebate} \times \frac{\text{husband's income tax liability (net of applicable credits)}}{\text{income tax liability of both spouses (net of applicable credits)}} = \text{husband's rebate}$$

EXAMPLE 1. A husband and wife file separate Iowa returns for 1978. The husband's income tax liability is $600 after reduction of the credits specified in subrule 43.6(1). The wife's income tax liability after reduction of the credits is $400. The allowable rebate for the taxpayers is 10 percent of their combined liability of $1,000 or $100. On the basis of the formula, the wife's rebate is:

$$\$100 \times \frac{\$400}{\$1000} = \$40$$

The husband's rebate is:

$$\$100 \times \frac{\$600}{\$1000} = \$60$$

EXAMPLE 2. A husband and wife file separate Iowa returns for 1978. The husband's income tax liability is $4,900. The wife's income tax liability is $100. The allowable rebate for the taxpayers is 10 percent of their total liability of $5,000 or $500, but is limited to $250.

The wife's rebate is: $\$250 \times \frac{\$100}{\$5000} = \$ \ 5.00$

The husband's rebate is: $\$250 \times \frac{\$4900}{\$5000} = \$245.00$

43.6(3) *Audits or examinations during period of rebate.* The effect of the rebate must be considered in audits of 1978 Iowa returns when the audits or examinations are agreed to by the taxpayer or a certified notice is sent to the taxpayer on or before June 30, 1980. In cases where audits completed prior to June 30, 1980, increase the income tax liability of the taxpayer, the amount of the rebate of the taxpayer will be increased accordingly, subject to the maximum amount of $250. In cases where audits completed prior to June 30, 1980, decrease the income tax liability of the taxpayer, the rebate of the taxpayer will be decreased accordingly.

43.6(4) *Amended returns received during the rebate period.* The department will adjust the amount of the rebate on all amended 1978 returns that are received or are postmarked on or before June 30, 1980.

43.6(5) *Interest paid on rebates.* Interest at the rate of three-fourths of 1 percent per month is to be paid on rebates not made within 120 days from the date of payment. For calendar year 1978 returns filed before April 30, 1979, the date of payment is April 30, 1979. For calendar year 1978 returns filed after April 30, 1979, due to an extension of time, the date of payment is the last date to which the return due date has been extended and not the actual date the return is filed.

(EXAMPLE: A return due date has been extended to June 30, 1979. Even though the return is filed on May 15, 1979, the date of payment for purposes of the rebate is June 30, 1979, and, therefore, no interest would accrue on the rebate until 120 days after June 30, 1979.) For fiscal years, the date of payment is considered to be the last day of the fourth month following the close of the tax year, or in the case of extensions, the last day of the month for which the return due date has been extended. However, interest will not be paid on rebates issued after 120 days from the date of payment in the case of returns that were improperly or incorrectly completed. For purposes of paying interest on rebates, amended returns will be considered as returns that are improperly or incorrectly completed. Also, any adjustment to a return which alters the tax liability, or an application of an overpayment to another tax due which the taxpayer currently owes the department will be considered an improper or incorrect return.

43.6(6) *Application of rebate when taxpayer fails to remit tax.* For any individual that files an income tax return before the due date but fails to remit the tax due with the return, an assessment will be issued for the total amount of tax, penalty, interest and fees due. No rebate will be refunded or applied to this liability unless the taxpayer remits the difference between the amount due and the amount of the rebate and specifically requests that the rebate be applied to the tax liability due. Any balance of the rebate will be refunded to the taxpayer.

701—43.7(422) Special refund for taxpayers with net long-term capital gains in the tax year. Taxpayers that have net long-term capital gains in tax years beginning on or after January 1, 1987, but before January 1, 1990, may file refund claims on overpayments that would result from recomputing their income tax liabilities with a capital gain deduction on a limited portion of net long-term capital gains. This benefit is not available to estates and trusts. See rule 701—40.38(422) for the capital gains deduction for limited amounts of certain types of capital gains which is applicable for tax years beginning on or after January 1, 1990.

The following subrules set out qualifications that taxpayers must meet to be eligible for the special refunds and clarify other issues related to the special refunds.

43.7(1) *Net long-term capital gains that are not applicable for the special refund.* To the extent that the federal adjusted gross income of a taxpayer includes capital gain treatment for sales of dairy cattle made between January 1, 1987, and September 1, 1987, under the federal milk production termination program, the capital gains from these sales do not qualify for the special refund. Any net long-term capital gains which are not included in net income because the gains qualify as distressed sales transactions pursuant to Iowa Code subsection 422.7(25) also do not qualify for the special refund described in this rule.

43.7(2) *Qualifications that must be met for taxpayers with net long-term capital gains in the tax year to be eligible for the special refund.* Taxpayers with net long-term capital gains in the tax years beginning in 1987, 1988, and 1989 must meet three qualifications to be eligible for the special refund. First of all, the taxpayers must file their returns on a timely basis. This means that the returns must be filed on or before the due dates of the returns or must be filed by the extended due date of October 31, 1988, for calendar-year taxpayers with valid extensions of time to file their 1987 returns.

Secondly, the taxpayers must file claims for the special refunds on Form IA 50 on or before October 31, 1988, if the taxpayers are filing on a calendar-year basis for 1987. Taxpayers filing special refund claims for 1988 and subsequent years must file the claim forms when they file their returns. Claims for the special refund should be filed with the taxpayer's state return by attaching the completed Form IA 50 to the return form and by entering the amount of the potential special refund on the line for the refund near the bottom of page two of the IA 1040 return form.

The third qualification that must be met is that the taxpayer must have paid all the income tax required to be shown to be due on the return for the 1987 tax year. This tax shown to be due must be paid on or before October 31, 1988. In the case of 1988 returns and returns for subsequent years, taxpayers claiming the special refunds on these returns must have paid all the taxes due at the time they file the returns. For purposes of payment of the tax, taxpayers may not consider any potential refund from the special refund as a tax payment.

See subrule 43.7(3) for qualifications that must be met for fiscal year taxpayers.

43.7(3) *Taxpayers with net long-term capital gains filing fiscal-year returns for tax years beginning in 1987, 1988, and 1989.* Taxpayers filing returns for tax years beginning in 1987, 1988, and 1989 which are on a fiscal-year basis must meet similar qualifications for eligibility for the special refund as calendar-year taxpayers. The fiscal-year taxpayers must file their returns timely in order to be eligible for the special refund. The return must be filed on or before the due date or within six months of the extended due date in cases of taxpayers with valid extensions to file their returns after the due dates.

The fiscal-year filers must file claims for the special refunds on the basis of their net long-term capital gains within six months of the due dates of their returns for years beginning in 1987. In the case of returns with special refunds for tax years beginning in 1988 and in subsequent years, the claims for the special refunds should be filed when the returns are filed. The claims must be filed on Form IA 50.

The final qualification that fiscal-year filers must meet to be eligible for the special refund is that the taxpayers must pay all the income taxes required to be shown due on their returns for the tax years beginning in 1987, 1988, and 1989. These taxes must be paid within six months of the due dates of the returns for tax years beginning in 1987. In the case of returns for years beginning in 1988 and in subsequent years, the taxes due on the returns must be paid at the times the returns are filed.

43.7(4) *Limitations on net long-term capital gains that qualify for the special refunds.* In the case of all taxpayers, except married taxpayers filing separate returns, the net long-term capital gains that must be considered for the special refund is the lesser of the net long-term capital gains of the taxpayer or net long-term capital gains of $17,500. Married taxpayers who elect separate filing on the combined return form are treated as one taxpayer and the total amount of net capital gains to be used for purposes of the special refund shall not exceed $17,500. If the net long-term capital gains of these taxpayers exceeds $17,500, the $17,500 limitation shall be allocated between the spouses in the ratio of each spouse's net capital gain to the net capital gains of both spouses.

In the case of married taxpayers filing separate returns, each spouse may consider for purposes of the special refund, the lesser of the net capital gain received by that spouse or a net capital gain of $8,750.

43.7(5) *Computation of special refunds.* The special refunds are computed by reducing the taxable incomes of the taxpayers by the capital gain deduction on the net long-term capital gains that qualify for the special refunds according to the limitations described in subrule 43.7(4). The potential special refund is the reduction in the Iowa income tax on the taxable income as reduced by the applicable capital gain deduction. However, to the extent that the taxpayer's state alternative minimum tax is increased as a result of reduction of the individual's regular income tax liability by application of the capital gain deduction, the potential special refund is not allowed.

This special refund will not be allowed to the extent that the income tax liability on the portion of the net long-term capital gain which is affected by the special refund is satisfied by an out-of-state tax credit on a capital gain which is taxed by another state or foreign country. In addition, the special refund is not allowed to the extent that the capital gain of a nonresident or part-year resident is satisfied by the nonresident part-year resident credit. No special refunds may be granted on returns for individuals where no state income taxes were paid on the returns.

43.7(6) *Distribution of the special refunds in February 1989.* No interest will be paid on the special refunds if the special refunds are issued on or before February 28, 1989, for tax years beginning in 1987. The general assembly has allocated $8 million for the special refunds. If potential special refunds exceed the aggregate of $8 million, the refunds will be allocated to the taxpayers in the ratio of the amount of each taxpayer's potential special refund to the aggregate of the amounts of potential special refunds for all taxpayers.

In the case of fiscal-year taxpayers whose special refunds are not available for distribution in February 1989, these taxpayers' potential special refunds will be issued in the same ratio as was determined for the special refunds to be distributed in February 1989, for tax years beginning in 1987.

In cases where the amounts of special refunds issued to eligible taxpayers are less than the special refunds requested by the taxpayers, the taxpayers are not entitled to future refunds, credits, or carryovers of the portions of the special refunds which are not issued because of the $8 million limitation on the special refunds.

Note that in the case of special refunds for tax years beginning in 1988 and 1989, the special refunds for those tax years are to be distributed by February 1990 and February 1991, respectively, in order for the refunds to be distributed without payment of interest.

43.7(7) *Tax items not to be affected by special refunds.* Administration of special refunds shall not affect the amounts of the following items as those items were shown or claimed on the taxpayer's return for the tax year beginning in 1987, 1988 and 1989.

1. Checkoff to the Iowa election campaign fund under Iowa Code section 56.18.
2. Checkoff to the fish and game protection fund in Iowa Code section 107.16.
3. Credits against tax provided in Iowa Code section 422.10.
4. Credits against tax provided in Iowa Code section 422.11A.
5. Credits against tax provided in Iowa Code section 422.12.
6. School district income surtax liability computed in Iowa Code section 442.15.
7. Checkoff to the U.S. Olympic fund provided in Iowa Code section 422.12A for tax years beginning on or after January 1, 1988.

The special refund issued to a taxpayer will be considered for purposes of audits or reviews of claims for refunds which take place after the special refunds are issued.

The special refund will not be issued to a taxpayer to the extent that the taxpayer has an outstanding tax liability from a tax administered by the department of revenue and finance or the taxpayer is subject to one or more of the setoffs authorized in Iowa Code chapter 421.

This rule is intended to implement Iowa Code section 422.9.

701—43.8(422) Livestock production credit refunds for corporate taxpayers and individual taxpayers. For tax years beginning on or after January 1, 1996, corporate and individual taxpayers who own certain livestock, have livestock production operations in Iowa in the tax year, and who meet certain qualifications are eligible for a livestock production credit refund. The amount of a livestock production credit refund is determined by adding together for each head of livestock in the taxpayer's operation the product of 10 cents for each corn equivalent deemed to have been consumed by that animal in the taxpayer's operation in the tax year. However, for tax years beginning in the 1996 and the 1997 calendar years, only qualified taxpayers that have cow-calf livestock production operations described in paragraph *"i"* of subrule 43.8(2) will be eligible for the livestock production credit refunds and for tax years beginning on or after January 1, 1998, only qualified taxpayers that have cow-calf livestock operations described in paragraph *"o"* of subrule 43.8(2) will be eligible for the livestock production refunds, notwithstanding the other types of livestock operations mentioned in this rule. Note that the livestock production credit refund is also available to taxpayers who meet the qualifications described in subrule 43.8(1) and operate certain types of poultry operations in this state and own the poultry in the operations. The amounts of the livestock production credit refunds for these taxpayers are determined on the basis of 10 cents for each corn equivalent deemed to have been consumed by the chickens or the turkeys in the taxpayers' poultry operations in the tax year. However, the amount of livestock production credit refund may not exceed $3,000 per livestock or poultry operation for a tax year. In addition, the amount of livestock production credit refund per taxpayer for a tax year may not exceed $3,000. Therefore, if a particular taxpayer is involved in a cow-calf beef operation, a sheep-ewe flock operation, and a farrow-to-finish hog operation, the maximum livestock production credit refund for this taxpayer may not exceed $3,000.

General references in this rule to livestock, livestock production, and livestock production operations also apply to poultry, poultry production, and poultry production operations.

In the case of married taxpayers, each of the spouses may be eligible for a livestock production refund of up to $3,000 if each of the spouses was involved in a livestock production operation independently from the other spouse and independently from other taxpayers in the tax year. If both spouses are involved in the same livestock operation, the maximum refund from that operation is $3,000 which may be allocated between the individuals in the ratio of each spouse's ownership interest in the operation. If a livestock production operation is conducted by a partnership, limited liability company, subchapter S corporation, estate, or a trust, the livestock production credit refund from the entity is to be allocated to the owners of the entity in the same ratio as earnings are allocated to the owners. In situations where a livestock production operation is conducted partly within and partly without Iowa, only the livestock production activity in Iowa during the tax year will be considered for purposes of the livestock credit refund. The livestock production refund amounts for these taxpayers is to be allocated on the basis of sales of Iowa livestock which qualify taxpayers for the livestock production refund to total sales of livestock which qualify taxpayers for the refund. However, the refunds from any operations may not exceed $3,000. The following subrules outline how the livestock production credit refund program is to be administered by the department of revenue and finance:

43.8(1) *Qualifications for the livestock production credit refunds.* Taxpayers that own livestock located in Iowa in a tax year must meet the qualifications in paragraphs *"a"* and *"b"* in order to be eligible for the livestock production credit refunds for tax years beginning in the 1996 calendar year. Taxpayers that own livestock located in Iowa in tax years beginning on or after January 1, 1997, must meet the qualification in paragraph *"c"* for a tax year in order to be eligible for the livestock product refund for that tax year:

a. The taxpayer's net worth at the end of the tax year for the refund must be less than $1 million. A taxpayer filing a claim for the livestock production credit refund is to complete a balance sheet to establish the taxpayer's net worth on the last day of the tax year for which the refund is claimed. The balance sheet is to be completed on the basis of the accounting method used by the taxpayer for federal and Iowa income tax purposes. The taxpayer does not have to file the balance sheet with the taxpayer's return as part of the taxpayer's claim for the livestock production credit refund. However, the balance sheet must be retained with the taxpayer's other tax records for a minimum of three years after the return was filed so the balance sheet is available for audit by the department of revenue and finance. The balance sheet must include all assets owned by the taxpayer and must show the fair market value of those assets as well as the liabilities or debts that are attributable to that taxpayer. In the case of married taxpayers where only one of the spouses is materially participating in the livestock operation, only the fair market values of the assets owned by that individual are to be entered on the balance sheet, including half of the value of farmland owned by the spouses, other real estate, and items of personal property which are owned together by both taxpayers. In these situations, the taxpayer must list as liabilities on the balance sheet only those debts for which the taxpayer is personally liable. In the case of liabilities for property that is jointly owned by the taxpayer and the taxpayer's spouse, including property owned as tenants in common, only the debt on these properties that is the taxpayer's share of the debt is to be shown on the balance sheet.

b. More than one-half of the taxpayer's gross income received or accrued in the tax year must be from farming or ranching activities. A taxpayer's gross income from farming or ranching includes amounts the individual has received in the tax year from cultivating the soil or raising or harvesting any agricultural commodities. This includes, but is not limited to, income from the operation of a stock, dairy, poultry, fish, bee, fruit, or truck farm, plantation, ranch, nursery, range, orchard, or oyster bed, as well as income in the form of crop shares received from the use of the taxpayer's land. It also includes total gains from sales of draft, breeding, dairy, or sporting livestock. In the case of individual income tax returns for the 1995 tax year, gross income from farming or ranching includes the total of the amounts from line 11 or line 51 of Schedule F and line 7 of Form 4835 ("Farm Rental Income and Expenses"), plus the share of partnership income from farming, the share of net taxable income from farming in an estate or trust, and total gains from the sale of livestock held for draft, breeding, sport, or dairy purposes, as shown on Form 4797 ("Sale of Business Property"). In the case of individual returns for tax years beginning in 1996 and thereafter, equivalent lines from returns and supplementary forms would be used to determine a taxpayer's gross income from farming or ranching for those years.

To make a calculation as to whether more than half of the taxpayer's gross income in the tax year is from farming or ranching operations, the gross income from farming or ranching as determined in the previous paragraph is divided by the taxpayer's total gross income. If the resulting percentage is greater than 50 percent, the taxpayer will be eligible for the livestock production credit refund (assuming all other qualifications are met).

For example, a taxpayer had $25,000 in wages, $75,000 in gross income from farming, and $10,000 in net income from farming. In this case 75 percent of the taxpayer's gross income was from farming even though the taxpayer had only $10,000 in net income from farming activities.

In the case of married individuals, the taxpayer's gross income includes the income of the other spouse only if that spouse is materially participating in the livestock or poultry operation. If the other spouse is not materially participating in the livestock operation, the taxpayer's gross income from farming would be determined as if the taxpayer was filing a separate Iowa return so that the taxpayer's income and deductions are reported separately from the income and deductions of the taxpayer's spouse.

For example, a taxpayer's gross income from a cow-calf beef production operation was $100,000 and the taxpayer's spouse had $60,000 in gross income which was wages from employment. Since the taxpayer's spouse had no material participation in the taxpayer's cow-calf beef production operation, the spouse's income was not considered for purposes of determining if more than 50 percent of the taxpayer's gross income was from farming or ranching.

Taxpayers do not have to submit (with their claims for the livestock production credit refunds) proof that more than half of the taxpayer's gross income is from farming or ranching. However, they should be able to provide such proof if such proof is requested by the department.

c. Individual and corporate taxpayers will be eligible for the livestock production credit refund if the taxpayer's federal taxable income for tax years beginning in the 1997 calendar year is $99,600 or less. In the case of married taxpayers, their combined federal taxable income must be considered to determine if they are eligible for the credit.

For each tax year beginning after 1997, the federal taxable income specified previously in this paragraph is to be multiplied by the "cumulative index factor" for that tax year to calculate the federal taxable income that will be used to determine whether a taxpayer is eligible for the livestock production refund that is authorized for that tax year. "Cumulative index factor" means the product of the annual index factor for the 1997 calendar year and all annual index factors for subsequent calendar years. The annual index factor equals the annual inflation factor for that calendar year as computed in Iowa Code section 422.4 for purposes of indexation of the tax rates for individual income tax.

43.8(2) *Definitions related to the livestock production credit refunds.* The following definitions explain livestock and poultry for purposes of this rule. The definitions also describe the various types of livestock operations of taxpayers which may qualify the taxpayers for the livestock production credit refunds and specify how the refunds are to be computed for the various types of livestock operations:

a. For the purposes of this rule, the term "livestock" means domestic bovine animals which will be referred to as bulls, heifers, cattle, calves, or cows in this rule, domestic ovine animals which will be referred to as sheep, lambs, rams, or ewes, or domestic swine which will be referred to as hogs or pigs. That is, for purposes of this rule, "livestock" includes only those farm animals which may qualify their owners for the livestock production credit refund. "Livestock" does not include horses, goats, donkeys, mules, oxen, furbearing mammals, other mammals, or other classes of animals, although some of these animals or species may be considered to be "livestock" in other contexts or situations.

b. For purposes of this rule the term "poultry" means only domestic chickens and domestic turkeys as only these types of birds may qualify their owners for the livestock production credit refunds. "Poultry" does not include ducks, geese, wild turkeys, emus, ostriches, or other fowl or birds, although some of these species may be considered to be poultry in other contexts or situations.

c. For purposes of this rule, the term "farrow-to-finish" hog operations comprises those hog production operations where the majority of the hogs sold from the operation are from animals farrowed and raised in the operation which are sold at a prime market weight of 200 pounds or more.

In order to compute the livestock production credit refund amounts for the "farrow-to-finish" hog production operations, the corn equivalent factor of 13 per animal sold, or $1.30, is multiplied by the number of hogs sold at prime market weight in the tax year which were farrowed and raised in the operation. No corn equivalent credits are given for hogs sold at the prime market weight which have been in the operation less than three months on the date of sale. In the "farrow-to-finish" operations, hogs sold at a weight that is less than the prime market weight also are considered for purposes of computing the livestock production credit refund for the operation, but only at the corn equivalent factor of 2.6 or $.26 per pig sold.

In "farrow-to-finish" hog operations, if any pigs are purchased at the feeder pig weight of less than 60 pounds and are sold at prime market weight (200 pounds or more), see paragraph *"e"* in this subrule for the corn equivalent factor which applies to these transactions.

d. For purposes of this rule, the term "farrow-to-feeder-pig" hog operations includes those operations where essentially all the pigs farrowed in the operation are sold at an average weight of less than 60 pounds per pig, or at "feeder pig" weight.

The potential livestock production credit refunds for these operations are computed by multiplying the corn equivalent factor of 2.6 or $.26 times the number of pigs sold at the "feeder pig" weight from these operations in the tax year. However, the corn equivalent factor of 13 or $1.30 per animal sold can be used for hogs sold at the prime market weight (200 pounds or more) from these operations for those animals where there is documentation that the hogs were born and raised in the operation or that the hogs were in the operation for a minimum of three months at the time the hogs were sold.

e. The term "finishing feeder pigs" hog operations comprises those operations where the majority of the hogs in this operation are purchased when these animals weighed less than 60 pounds or at the "feeder pig" weight and the animals are sold at the time the animals are at the prime market weight of 200 pounds or more per hog. The potential livestock production credit refunds for these operations are computed by multiplying the corn equivalent factor of 10.4 or $1.04 times the number of animals sold in the year at the prime market weight. However, only those animals that were in the operation for a minimum of three months at the time the hogs were sold at prime market weight can be considered for purposes of the livestock production credit refund. Corn equivalent factor credits of 2.6 or $.26 are given for animals which are purchased at the "feeder pig" weight of less than 60 pounds and were in the operation for a minimum of three months when the hogs were sold at a weight which is less than the prime market weight of 200 pounds or more per hog.

f. For purposes of this rule, the term "layer poultry operations" includes operations where the eggs produced by the chickens in the operation are sold for human consumption. The livestock production credit refunds for these operations are computed on the basis of the average number of chickens in the operation in the tax year multiplied by the corn equivalent factor of .88 or $.088. The average number of chickens in the operation in the tax year is the aggregate of the number of chickens in the operation on the first day in the tax year that the operation was in production and the number of chickens in the operation on the last day of the tax year in which the operation was in production divided by 2.

However, in a situation where the operation was started or was shut down sometime during the tax year, the livestock refund amount otherwise computed must be reduced by 8.33 percent for each month in the tax year in which the operation was not in production. Thus, in the case where the computed livestock refund amount was $2,000 and the operation was in production for only nine months of the tax year, the adjusted refund amount would be $1,500 ($2,000 x .0833 x (3) = $500). ($2,000 - 500 = $1,500)

g. For purposes of this rule, the term "turkey production operations" means operations involved in raising domestic turkeys for sale for human consumption and where the turkeys are sold at a prime market weight. The prime market weight for male or tom turkeys is between 30 and 35 pounds. The prime market weight for hen turkeys is between 22 and 25 pounds. The livestock production credit refund for this type of operation is computed by multiplying the number of turkeys sold in the tax year at the prime market weight times the corn equivalent factor of 1.5 or $.15. However, only those turkeys that were in the operation for a minimum of three months on the date the turkeys were sold may be considered for purposes of computing the livestock production credit for the turkey operation.

h. For purposes of this rule, the term "broiler poultry operations" means poultry production operations whereby the chickens raised in the operations are sold for human consumption at a prime market weight or broiler weight between 3 pounds and 6 pounds depending on the breed or breeds of chickens. The livestock production credit refund for this type of operation is computed by multiplying the number of chickens sold in the tax year at broiler weight by the corn equivalent factor of .15 or $.015. However, only chickens that are in the broiler operation for a minimum of six weeks before the chickens are sold at broiler weight may be considered for purposes of computing the livestock production credit for these operations.

i. For purposes of this rule and only for tax years beginning in the 1996 and 1997 calendar years, "cow-calf beef operations" means those beef cattle production operations whereby the majority of the cattle in the operations were born and raised in the operations and many of the cattle in the operations were sold at a prime market weight of 700 pounds or more.

The livestock production credit refunds for cow-calf operations include the number of cattle raised in the operation, which are sold in the tax year at the stocker weight under the criteria described in paragraph *"j"* of this subrule and which are sold in the tax year at the feedlot weight under the criteria described in paragraph *"k"* of this subrule. However, those cattle in the operation that were sold at the feedlot weight in the tax year qualify for a combined stocker and feedlot production credit refund of $11.65 per head of cattle sold, to the extent the cattle sold had been in the operation at least 300 days after the cattle were weaned. Cattle in the operation that were sold at a weight below 700 pounds may not be counted for purposes of computing the livestock production credit refund for the operation. However, unbred replacement heifers in inventory on December 31 of the tax year would qualify for a production credit refund of $4.15 per head if these cattle had been born, raised and weaned in the operation and had been in the herd for at least two months after weaning on December 31.

Finally, the livestock production credit refunds for cow-calf operations include refund amounts determined on the number of bred cows, bred yearling heifers, and breeding bulls in inventory on December 31 of the tax year times the corn equivalent factor of 111.5 or $11.15. However, any bred cows, bred yearling heifers, and breeding bulls in inventory on December 31 which were not in the operation on July 1 of that calendar year may not be considered for purposes of computation of the livestock production credit refund.

j. For purposes of this rule, "stocker cattle operations" are beef cattle operations where essentially all cattle in the operations are purchased as calves, raised in the operation at least two months, and the cattle are sold in a range from 700 to 900 pounds per head which is deemed to be the "stocker weight." Cattle in the operation that were sold at a weight of less than 700 pounds may not be counted for purposes of computing the livestock production credit refund for the operation. The livestock production credit refunds for these operations is computed on the basis of the number of cattle sold in the year at the stocker weight times the corn equivalent factor of 41.5 or $4.15 per head. Cattle sold in the tax year must be reported on a first-in, first-out basis unless records of the taxpayer can support a different order of sale of the animals. If this operation includes calves that were raised on the farm where they were born, these calves qualify for the corn equivalent factor of 41.5 or $4.15 per head if the calves were unsold at the end of the tax year and the calves were in the operation for a minimum of two months after the calves were weaned.

k. For purposes of this rule, "beef feedlot operations" include those beef cattle operations whereby the cattle are purchased as calves approximately 60 days from the time the calves were weaned or at a "stocker weight" and are sold at a feedlot weight of 900 pounds or more after a three-month period when the animals were on a high concentrate diet. Note that any animals which are purchased for the operation and are maintained in the herd for less than four months at the time of sale do not qualify the taxpayer for the livestock production credit refund of $7.50 per head of cattle sold. The livestock production credit refund for these operations is computed by multiplying the number of cattle sold in the year at the feedlot weight times the corn equivalent amount of 75 or $7.50 per animal. However, if any cattle in the operation are sold at the "stocker" weight of at least 700 pounds but less than 900 pounds, these animals may be counted for the livestock production credit refund at a corn equivalent amount of 41.5 or $4.15 per head of cattle sold to the extent the cattle were in the operation for two months or more at the time of sale. If any cattle in the operation in the tax year were sold at a weight of less than 700 pounds, the sales of these cattle may not be counted for the livestock production credit refund. Cattle sold in the tax year must be reported on a first-in, first-out basis unless records of the taxpayer can support a different order of sale of the cattle.

l. For purposes of this rule, "dairy cattle operations" includes those cattle operations where the primary purpose of the operations is the production of milk and milk products for human consumption. The livestock production credit refund is computed by multiplying the aggregate of the number of milking cows in lactation on December 31 of the tax year and the number of cows bred to calve within 60 days of December 31 and the number of breeding bulls in inventory on December 31 times the corn equivalent number of 350 or $35 per cow. However, cattle that were purchased in the period between July 1 and December 31 of the calendar year may not be considered for purposes of computation of the livestock production credit for the dairy operation. In the case of a "dairy cattle operation" which started or ceased production in the tax year, the livestock production credit refund otherwise computed must be reduced by 8.33 percent for each month in the tax year in which the livestock operation was not in production. Heifers in the operation are not counted for purposes of the credit until the animals are bred to calve.

m. For purposes of this rule, "ewe flock sheep operations" are sheep operations whereby the majority of the sheep and lambs sold from the operation were born and raised in the operation. The livestock production credit refunds for these operations are computed by multiplying the number of ewes and rams in inventory on December 31 of the tax year times the corn equivalent factor of 20.5 or $2.05 per ewe or ram. Any ewes or rams purchased within three months before December 31 of the tax year may not be considered for purposes of computing the livestock production credit for the operation. In addition, lambs sold in the tax year from the operation may be counted for the production credit refund at 4.1 corn equivalents or $.41 for each lamb sold to the extent the lambs were in the operation for a minimum of three months prior to the date of sale.

n. For purposes of this rule, "sheep feedlot operations" are sheep production operations where lambs born and raised in the operation are sold after the lambs have been in the operation for a minimum of three months prior to the date of sale. The livestock production credit refunds are computed by multiplying the number of lambs sold in the tax year times the corn equivalent factor of 4.1 or $.41.

o. For the purposes of this rule and for tax years beginning on or after January 1, 1998, "cow-calf operations" means those livestock cattle production operations that include bred cows, bred heifers, and breeding bulls. The livestock production credit refunds for cow-calf operations are determined only on the number of bred cows, bred heifers, and breeding bulls in inventory of the operations on December 31 of the tax year times the corn equivalent factor of 111.5 or $11.15. However, only those bred cows, bred heifers, and breeding bulls in inventory on December 31 which were also in inventory on July 1 of the same calendar year may be counted for purposes of computing the livestock production refunds.

43.8(3) *Filing claims for the livestock production credit refunds.* Taxpayers who are eligible for the livestock production credit refunds must file refund requests on claim forms provided by the department that must be attached to their income tax returns for the tax year in which the livestock production occurred. The claim forms must be filed with the income tax returns within ten months after the end of the tax year of the return in order for the refund claims to be timely. Thus, in the case of a taxpayer filing a livestock production refund claim form with the 1996 Iowa income tax return for calendar year 1996, the claim forms must be filed by October 31, 1997, in order for the claims to be timely. Taxpayers may not request extensions for filing claims for the livestock production refunds.

The department will determine by February 28 of the year after the year in which the livestock production credit refund claims are to be filed if the total amount requested on the refund claims exceeds the amount appropriated for the refunds for that tax year. If a taxpayer's refund claim is not payable on February 28 because the taxpayer is a fiscal year filer, that taxpayer's claim will be considered to be a claim for the following tax year. However, in order for this claim to be considered to be a valid refund claim for the following tax year, the refund claim must have been filed within ten months after the end of the fiscal year of the taxpayer. However, in the case of livestock production credit refund claims for fiscal year periods beginning in 1996 which are not received soon enough to be considered for the refunds to be issued in February 1998, only claims for cow-calf livestock production operations will be considered with the livestock production refund claims for the 1997 tax year.

If a taxpayer files a fraudulent claim for a livestock production credit refund for a tax year, the taxpayer will be considered to have forfeited any right or interest to a livestock production refund for any subsequent tax year after the year of the fraudulent claim.

43.8(4) *Records needed to establish livestock production credit refunds.* The burden is on the taxpayer to maintain those records and documents which support the livestock production credit refund that was claimed by the taxpayer. Necessary records and documents must include, but are not limited to, the ones mentioned in this subrule. Some of the necessary records are inventory schedules showing the number of livestock or poultry in the livestock operation on certain dates in the tax year. Sales of livestock or poultry in the tax year must be supported by scale tickets, packing house invoices, sales receipts, sales barn invoices, and similar documents. Dairy herd improvement association records and similar inventory forms can be used to establish the number of animals or the number of birds on hand in the operation on a certain day in the tax year. These documents are not to be submitted with the taxpayer's income tax return with the livestock production credit refund claim form. Instead, the documents are to be retained with other tax records for at least three years in case of possible audit by the department of revenue and finance.

This rule is intended to implement Iowa Code sections 422.120, 422.121, and 422.122.

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